

GAU 1614

CASE LA 24A

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1614

ROBL ET AL.

Examiner: Moezie, F.

APPLICATION NO: 09/391,053

FILED: SEPTEMBER 7, 1999

FOR: METHOD FOR TREATING DIABETES EMPLOYING AN AP2
INHIBITOR AND COMBINATION

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE

Sir:

In reply to the Office Action dated November 14, 2000 Applicants submit the following response.

Compliance with Requirements for Sequence Listing

Kindly enter the following amendments.

IN THE SPECIFICATION

Page 3, line 11, after "aP2 protein" insert -- (SEQ ID NO: 1) --.

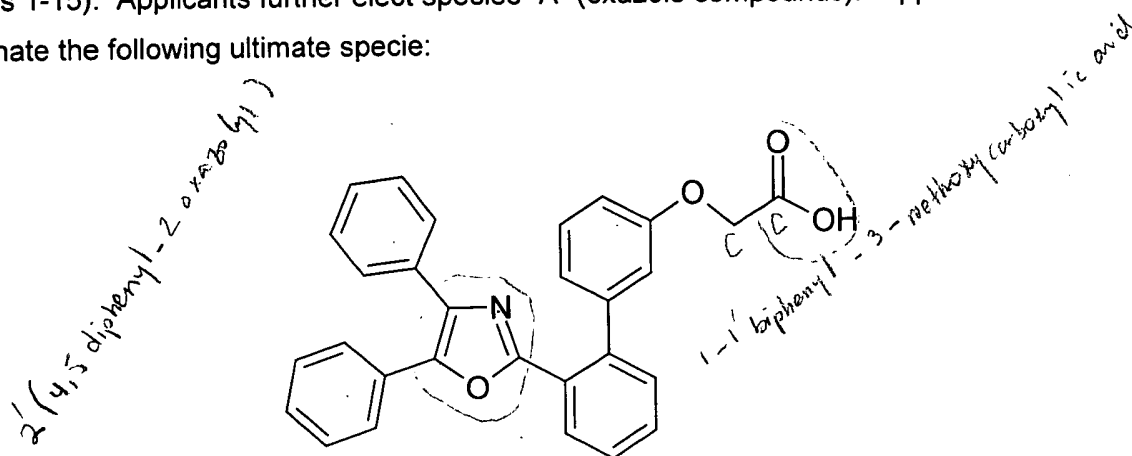
Page 3, line 21, after "aP2 protein" insert -- (SEQ ID NO: 1) --.

IN THE CLAIMS

Page 35, line 17, after "aP2 protein" insert -- (SEQ ID NO: 1) --.

Restriction Requirement

Applicants herein elect to prosecute the invention of Group I (method of treating diabetes) (claims 1-15). Applicants further elect species "A" (oxazole compounds). Applicants further designate the following ultimate specie:



Applicants submit that Claims 1-11, 14 and 15 read on the elected species.

Applicants respectfully traverse the restriction requirement as to the inventions designated I through VI on the basis that the various utilities that the Examiner has carved-out from claim 1 are not patentably distinct. One skilled in the art would reasonably expect an anti-diabetic agent to also be useful in treating other related disorders including insulin resistance, hyperglycemia, hyperinsulinemia, and elevated fatty acids or glycerol or hypertriglyceridemia. Indeed, these other disorders are all components or direct consequences of the diabetic state. This position is well supported by prior art literature, such as Felber, J-P et al., From obesity to diabetes: Pathophysiological considerations, Int. J. Obes. 1992, 16:937-952 (herein "Felber"), which explains the link between diabetes and the related disorders at issue. A copy of the Felber review article is enclosed with this response.

Obesity is very closely related to diabetes and could even participate causally in the development of non-insulin dependent diabetes mellitus ("NIDDM"). As explained by Felber:

The relationship between obesity and NIDDM is, however, **so closely related** that it is worth questioning the possibility that obesity is more than just a risk factor among several others, but **is a factor which participates causally in the development of NIDDM**, against a genetic background.

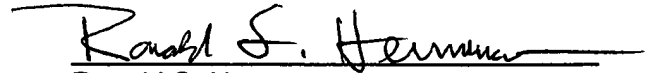
Felber at 937 (emphasis added). Felber additionally explains that "[I]nsulin resistance is typically observed in obesity." Felber at 937. In his concluding paragraph at pages 949-950, Felber summarizes the link between these related disorders.

Accordingly, Applicants respectfully request that the Examiner withdraw the restriction requirement as to inventions I through VI and combine inventions II through VI with the presently elected invention I for purposes of further prosecution. Applicants further respectfully submit that prosecution of the inventions I through VI would not present an undue burden on the Examiner.

For the same reasons provided above, Applicants respectfully traverse the restriction requirement as to the non-elected inventions designated VII through XII.

Respectfully submitted,

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Date: 12/14/00